

DOCKET NO.: FST CF 15-5014808-S)	SUPERIOR COURT
)	
WILLIAM A. LOMAS,)	JUDICIAL DISTRICT OF
)	STAMFORD/NORWALK
Plaintiff,)	
)	AT STAMFORD
versus)	
)	
PARTNER WEALTH MANAGEMENT,)	
LLC, KEVIN G. BURNS, JAMES PRATT-)	SEPTEMBER 9, 2016
HEANEY, AND WILLIAM P. LOFTUS,)	
)	
Defendants.)	

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S REQUEST
TO ADJOURN THE TRIAL DATE**

Defendants, Partner Wealth Management, LLC (“**PWM**”), Kevin G. Burns (“**Burns**”), James Pratt-Heaney (“**Pratt-Heaney**”), and William P. Loftus (“**Loftus**”) (collectively, the “**Defendants**”) submit this opposition to Plaintiff William Lomas’ (“**Lomas**”) motion for an adjournment of the November 9, 2016 trial date (the “**Trial Date**”) set in this case.

Defendants would suffer significant prejudice if the Trial Date is adjourned. For the reasons set forth below and to be presented on September 14, 2016, Defendants’ respectfully request that the Court hold firm the current Trial Date.

I. Background

This is a dispute between Plaintiff – a withdrawing member of a limited liability company (“**LLC**”) – and the Defendants, who are the LLC that Plaintiff withdrew from and the remaining members of the LLC. If Plaintiff is owed anything at all in connection with his withdrawal, it is substantially less than what he alleges in his Amended Complaint by virtue of his poor performance, fraud in connection with the timing of his withdrawal, his solicitation of at

least one current client, and his failure to use good faith efforts in the transitioning of his clients upon his departure.

Significantly, Defendants have broad and sweeping set off rights under the LLC operating agreement that entitles them to not only set off any damages caused by Plaintiff against any payments to Plaintiff for his interest in PWM, but also entitles the Defendants to recover their costs and attorneys' fees in connection with this action.¹

* * *

Plaintiff commenced this action *over a year ago* on June 29, 2015. There is no reason to adjourn the Trial Date – which was set by the Court on October 29, 2015. (*See* Ex. A). Indeed, the Court considered and specifically rejected later trial dates that the parties had proposed. (*Compare* Ex. A with Ex. B).

Party depositions are virtually complete:

- Lomas was deposed on July 18 and August 29;
- Burns was deposed on July 19 and August 30;
- Pratt-Heaney was deposed on August 25;
- Jeff Fuhrman, the President/COO/CFO of a non-party affiliate of PWM, was deposed on August 26; and
- Loftus was deposed on August 31 and a second day of testimony scheduled for September 28.

And no party has noticed any non-party depositions (beyond Jeff Fuhrman's).

¹ The set off provision in the operative agreement provides:

The Company or the remaining Members shall be entitled to set off against any installment payments pursuant to its purchase of Interests under this Agreement an amount equal to all costs, expenses (including attorneys' fees) and damages incurred as a result of (i) a breach by the Member of this Section 7.8 or any other section of this Agreement, (ii) the negligence, gross negligence or willful misconduct of the Member, or (iii) any provision of any non-competition, confidentiality and/or non-solicitation agreement to which the Member is a party. All Members shall, not later than the date of execution and delivery hereof, execute the Company's Non-Competition Agreement or equivalent thereof. The rights of set off as set forth herein shall be in addition to any and all remedies available to the Company or the remaining Members under law or resulting from the Member's violation of any agreement with the Company.

There is no reason why expert discovery cannot be completed by the end of October 2016. Defendants have retained two experts: (1) an industry expert and (2) a damages expert. And, upon information and belief, Plaintiff intends to retain at least one expert. There is no reason why the parties' cannot make expert disclosures by September 23, 2016 (or by September 30, 2016 at the latest). That will give the parties more than sufficient time to depose each other's experts should they so choose.

II. Adjournment of the Trial Date Will Cause Extreme Prejudice to Defendants

Adjournment of the Trial Date would cause undue prejudice and an extreme hardship to the Defendants. A prejudgment remedy ("**PJR**") has been entered in this action against the Defendants requiring them: (1) make annual payments to the Plaintiff every October 15 between 2015 and 2019 (the "**Direct Payments**"); and (2) fund an escrow on the 15th of *every month* until final judgment or a settlement in the matter (the "**Escrow Payments**"). On October 15, 2016, Defendants are required to make a Direct Payment to Plaintiff of \$757,568.39. Between November 15, 2015 through October 15, 2016, Defendants will have escrowed a total of \$274,625.10. And between November 15, 2016 and October 15, 2017, Defendants are required to escrow an additional \$255,707.70.

A delay of the Trial Date will result in Defendants having to continue paying Plaintiff money he is not entitled to and escrowing money that they do not owe to Plaintiff.

Plaintiff makes no mention of the PJR in his motion. The Court should not even consider Plaintiff's request unless he is prepared to immediately consent to vacate the PJR. Absent a vacatur of the PJR, Defendants are entitled to have the case promptly tried on the date set by the Court nearly a year ago.

III. The Pleadings Will Soon Close and the Prejudice to Plaintiff From Not Being Able to File A Dispositive Motion Is Minimal

On January 29, 2016, Defendants moved to strike part of the Amended Complaint. Oral argument was heard on the motion on May 9, 2016. Under the Practice Book, a defendant is precluded from interposing a responsive pleading while a motion to strike is pending lest it waive the grounds on which the motion to strike is based. Thus, in an effort to ensure that this case would be trial ready by the Trial Date, on May 27, 2016, Defendants provided Plaintiff with a draft Answer and Counterclaim Complaint so that Plaintiff would have fair notice of Defendants' expected claims and so that discovery could proceed.²

On September 1, 2016, the Court denied Defendants' motion to strike. As represented to the Court at a June 29, 2016 discovery hearing, Defendants will shortly file an Answer and Counterclaim Complaint "substantially similar to the draft" they have already provided to the Plaintiff.

As fact discovery is nearly complete, the allegations of the Counterclaim Complaint will be robust and not likely subject to dismissal.

Plaintiff argues that the trial date should be delayed because otherwise he will not have an opportunity to file a dispositive motion against Defendants' counterclaims. But under the original scheduling order entered on October 29, 2015, dispositive motions were to be marked ready on the short calendar by no later than July 1, 2016. (*See Ex. A*). When Defendants retained new counsel in March 2016, although the parties modified the deadlines for discovery, they agreed to keep two key dates in place: (1) the date dispositive motions were to be marked ready; and (2) the Trial Date. (*See Ex. C*).

² A revised draft complaint was provided on June 3, 2016.

In fact, in the course of attempting to negotiate a new discovery schedule, on July 20, 2016 – nearly two months after Plaintiff received a draft of the Answer and Counterclaim Complaint – Plaintiff expressly rejected any suggestion of moving the dispositive motion deadline: “We do not think that the deadline for filing dispositive motions should be extended. This would move the trial date well beyond November 9, given the timeline for filing and then awaiting the Judge’s decision.” (*See* Ex. D).

Indeed, no party has or was able to file a motion for summary judgment within the time provided for in the scheduling orders because when Defendants’ new counsel entered the case – at the beginning of March 2016 – not a single deposition had been taken, let alone noticed, by either party. Both parties are, therefore, equally situated in this regard and both have, for better or worse, lost the opportunity to move for summary judgment.

IV. Under the Individual Calendaring Program, The Trial Date Should Be Held Firm

Under the Connecticut Judicial Branch’s strategic plan, a process of civil re-engineering occurred as part of the second phase of the strategic plan. Under the Individual Calendaring Program (“ICP”) developed under the strategic plan, all civil cases filed in Stamford on or after January 1, 2014, are subject to the requirements of the ICP. (*See* Ex. E). The ICP has four “essential components”: (1) “the assignment of a case to a single judge upon filing”; (2) “early intervention by the court in cases”; (3) “the issuance of a scheduling order”; and (4) “the establishment of a **firm trial date** early in the process.” (emphasis added).

Contract cases, other than contract collection matters, filed after Jan. 1, 2014 are subject to the ICP.

Here, Plaintiff designated this case in his summons as C90, “Contracts” – “All Other,” and his case was filed on or about June 29, 2015. Therefore, this case is subject to the ICP and the Court should not permit the Trial Date that was set nearly a year ago to be adjourned.

V. Conclusion

For the reasons set forth above, Defendants’ respectfully request that the Court keep the firm Trial Date it has already set. To the extent the Court is inclined to adjourn the Trial Date, then the PJR should be immediately vacated.

Dated: September 9, 2016

Respectfully submitted,

By: /s/ Edward D. Altabet
GERARD FOX LAW P.C.
Edward D. Altabet (*pro hac vice*)
12 East 49th Street, 26th Floor
New York, NY 10017
Tel: (646) 690-4980
Fax: (310) 441-4447
Juris # 437662

-and-

BERCHEM, MOSES & DEVLIN, P.C.
Richard C. Buturla
75 Broad Street, Milford, CT 06460
Tel: (203) 783-1200
Fax: (203) 878-4912
Juris # 022801

*Attorneys for the Defendants/
(soon-to-be) Counterclaim Plaintiffs*

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of September 2016, I caused the foregoing,
Defendants' Opposition to Plaintiff's Motion Requesting a Status Conference to be served via
electronic mail and by U.S. mail on counsel as follows:

Thomas J. Rechen
McCarter & English, LLP
City Place I,
185 Asylum Street
Hartford, CT 06103
trechen@mccarter.com

/s/ Edward D. Altabet
Edward D. Altabet, Esq.

EXHIBIT A

SCHEDULING ORDER
JD-CV-71 Rev. 1-10

CONNECTICUT JUDICIAL BRANCH
SUPERIOR COURT
www.jud.ct.gov

COURT USE ONLY
SCHORD



Instructions

1. Complete all sections and file with the clerk.
2. All counsel and self-represented parties of record must sign the fully completed form and keep a copy for their records.

Judicial District of Stamford	Conference date (if known) 10/29/15	Docket number FST-CV-155014808-S
Name of case William A. Lomas v. Partner Wealth Management, LLC et al.		

Alternate Dispute Resolution

Have the parties discussed alternative dispute resolution methods (ADR), including court-annexed mediation, binding arbitration, and private mediation?

Are all parties willing to refer the case to **PRIVATE ADR**?

Are there reasons why this case should be referred to the Complex Litigation Docket (CLD)?

In court cases, are the parties willing to try the case before an **ATTORNEY TRIAL REFEREE**?

In jury cases, are the parties willing to try the case (with a jury) before a **JUDGE TRIAL REFEREE**?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Discovery Order

By order of the Presiding Judge, the following discovery order is entered. A party who does not follow this order may be sanctioned by having to pay a fine; having proposed evidence excluded at trial; having the case dismissed; being defaulted or non-suited; or other sanctions.

1. File Certificate of Closed Pleadings (JD-CV-11) by (date): 12/1/2015
2. Exchange written discovery requests by (date): 10/30/2015
3. Exchange responses to discovery requests by (date): 12/18/2015
4. Any dispositive motions, including motions for summary judgment, shall be filed by: (at least 8 months before trial) 5/13/2016
Responses to dispositive motions shall be filed by (date): 6/13/2016
5. Dispositive motions shall be marked ready on the short calendar no later than (date): ~~5/18/2016~~ 7/1/13
6. Disclose
Plaintiff's experts by (date): 2/1/2016 Defendant's experts by (date): 4/1/2016
7. Complete depositions of
Fact witnesses by (date): 5/2/2016
Plaintiffs by (date): 5/2/2016 Defendants by (date): 5/2/2016
Plaintiff's experts by (date): 3/1/2016 Defendant's experts by (date): 5/2/2016

Note: The Court will not act on a request for a continuance based on incomplete discovery unless the parties have followed the Standing **Discovery and Deposition Dispute Order** which may be viewed on the Judicial Branch website at www.jud.ct.gov/external/super/StandOrders/discovery.htm.

8. For jury cases only: The verdict will likely be ☒ more than \$50,000 ☐ less than \$50,000
9. Finish Independent Medical Exam(s) (I.M.E.) by (date): N/A
10. Is there a case that should be consolidated with this one? ☐ Yes ☒ No Docket number: _____
11. Motion to consolidate this case with the below-named case is to be filed and marked ready by (date): N/A

Docket number	Name of case to consolidate with
---------------	----------------------------------

12. When will this case be ready for a meaningful settlement conference? 2/1/2016
13. Other scheduling orders:

14. Other Orders:

JMC: 10/20/2016 @ 2:00PM
TJD: 11/7/2016

Counsel and all self-represented parties of record should indicate a date for pretrial, however it will still be subject to review by the court. Counsel and self-represented parties will be notified of the date and time scheduled for pretrial.

15. Give 3 dates when all parties are available to start the trial: 1. 10/20/2016 2. 11/10/2016 3. 11/17/2016
16. A pretrial conference will be held in this case on or about (date): 11/21/2016

(Continued on next page)

130.00

Agreement

Name of attorney/Self-represented party*	Name of attorney/Self-represented party*
Thomas J. Rechen, Esq. for Plaintiff	David R. Lagasse, Esq. for Defendants
Name of attorney/Self-represented party*	Name of attorney/Self-represented party*
	Richard J. Buturla, Esq. for Defendants
Name of attorney/Self-represented party*	Name of attorney/Self-represented party*
Name of attorney/Self-represented party*	Name of attorney/Self-represented party*

* If necessary, attach additional sheet with names of counsel/self-represented parties that are in agreement with the proposed order.

I certify that this proposed order has been agreed to by all counsel and self-represented parties of record.

Signed (individual attorney or self-represented party)

Certification

I certify that a copy of this motion was mailed or delivered to all counsel and self-represented parties in the case on:

DATE
10/23/15

SIGNED (individual attorney or self-represented party)

Phone number (area code first)
860-275-6706

Name of each party motion was mailed or delivered to*

David R. Lagasse, Esq.
Richard J. Buturla, Esq.

Address motion was mailed or delivered to*

Mintz Levin Cohn Ferris Glovsky & Popeo, P.C., 666 Third Avenue, New York, NY 10017

Berchem, Moses & Devlin, P.C., 75 Broad Street, Milford, CT 06460

* If necessary, attach additional sheet with the names of each party motion was mailed or delivered to and the address motion was mailed or delivered to.

Order (For Court Use Only)

The above proposed order having been considered, it is HEREBY ORDERED:

☒ Granted

☐ Denied

Signed (Judge)

(Heller, J.)

Date issued

10/29/2015

JD-CV-71 Rev. 1-10 (Back/Page 2)

Andrew C. Pryor, TAC

The Judicial Branch of the State of Connecticut complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation in accordance with the ADA, contact the court clerk of the Judicial District on the front/page 1 of this form.
www.jud.ct.gov/ADA/

EXHIBIT B

SCHEDULING ORDER

JD-CV-71 Rev. 1-10

**CONNECTICUT JUDICIAL BRANCH
SUPERIOR COURT**

www.jud.ct.gov

COURT USE ONLY**SCHORD****Instructions**

1. Complete all sections and file with the clerk.
2. All counsel and self-represented parties of record must sign the fully completed form and keep a copy for their records.

Judicial District of Stamford	Conference date (If known) 10/29/15	Docket number FST-CV-155014808-S
Name of case William A. Lomas v. Partner Wealth Management, LLC et al.		

Alternate Dispute Resolution

Have the parties discussed alternative dispute resolution methods (ADR), including court-annexed mediation, binding arbitration, and private mediation?

Are all parties willing to refer the case to **PRIVATE ADR**?

Are there reasons why this case should be referred to the Complex Litigation Docket (CLD)?

In court cases, are the parties willing to try the case before an **ATTORNEY TRIAL REFEREE**?

In jury cases, are the parties willing to try the case (with a jury) before a **JUDGE TRIAL REFEREE**?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Discovery Order

By order of the Presiding Judge, the following discovery order is entered. A party who does not follow this order may be sanctioned by having to pay a fine; having proposed evidence excluded at trial; having the case dismissed; being defaulted or non-suited; or other sanctions.

- File Certificate of Closed Pleadings (JD-CV-11) by (date): 12/1/2015
- Exchange written discovery requests by (date): 10/30/2015
- Exchange responses to discovery requests by (date): 12/18/2015
- Any dispositive motions, including motions for summary judgment, shall be filed by: (at least 8 months before trial) 5/13/2016
Responses to dispositive motions shall be filed by (date): 6/13/2016
- Dispositive motions shall be marked ready on the short calendar no later than (date): 7/18/2016
- Disclose
Plaintiff's experts by (date): 2/1/2016 Defendant's experts by (date): 4/1/2016
- Complete depositions of
Fact witnesses by (date): 5/2/2016
Plaintiffs by (date): 5/2/2016 Defendants by (date): 5/2/2016
Plaintiff's experts by (date): 3/1/2016 Defendant's experts by (date): 5/2/2016

Note: The Court will not act on a request for a continuance based on incomplete discovery unless the parties have followed the Standing **Discovery and Deposition Dispute Order** which may be viewed on the Judicial Branch website at www.jud.ct.gov/external/super/StandOrders/discovery.htm.

- For jury cases only: The verdict will likely be ☒ more than \$50,000 ☐ less than \$50,000
- Finish Independent Medical Exam(s) (I.M.E.) by (date): N/A
- Is there a case that should be consolidated with this one? ☐ Yes ☒ No Docket number: _____
- Motion to consolidate this case with the below-named case is to be filed and marked ready by (date): N/A

Docket number	Name of case to consolidate with
---------------	----------------------------------

- When will this case be ready for a meaningful settlement conference? 2/1/2016
- Other scheduling orders:

14. Other Orders:

Counsel and all self-represented parties of record should indicate a date for pretrial, however it will still be subject to review by the court.
Counsel and self-represented parties will be notified of the date and time scheduled for pretrial.

- Give 3 dates when all parties are available to start the trial: 1. 12/15/2016 2. 1/10/2017 3. 1/17/2017
- A pretrial conference will be held in this case on or about (date): 11/21/2016

(Continued on next page)

Agreement

Name of attorney/Self-represented party*	Name of attorney/Self-represented party*
Thomas J. Rechen, Esq. for Plaintiff	David R. Lagasse, Esq. for Defendants
Name of attorney/Self-represented party*	Name of attorney/Self-represented party*
	Richard J. Buturla, Esq. for Defendants
Name of attorney/Self-represented party*	Name of attorney/Self-represented party*
Name of attorney/Self-represented party*	Name of attorney/Self-represented party*

* If necessary, attach additional sheet with names of counsel/self-represented parties that are in agreement with the proposed order.

I certify that this proposed order has been agreed to by all counsel and self-represented parties of record.

Signed (Individual attorney or self-represented party)

Certification

I certify that a copy of this motion was mailed or delivered to all counsel and self-represented parties in the case on:	DATE	SIGNED (Individual attorney or self-represented party)	Phone number (area code first)
	10/23/15		860-275-6706
Name of each party motion was mailed or delivered to*		Address motion was mailed or delivered to*	
David R. Lagasse, Esq. Richard J. Buturla, Esq.		Mintz Levin Cohn Ferris Glovsky & Popeo, P.C., 666 Third Avenue, New York, NY 10017 Berchem, Moses & Devlin, P.C., 75 Broad Street, Milford, CT 06460	

*If necessary, attach additional sheet with the names of each party motion was mailed or delivered to and the address motion was mailed or delivered to.

Order (For Court Use Only)

The above proposed order having been considered, it is HEREBY ORDERED:

☐ Granted

☐ Denied

Signed (Judge)

Date issued

The Judicial Branch of the State of Connecticut complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation in accordance with the ADA, contact the court clerk of the Judicial District on the front/page 1 of this form.
www.jud.ct.gov/ADA/

EXHIBIT C

DOCKET NO. : FST CV15 50148-08 S : SUPERIOR COURT
WILLIAM A. LOMAS : J.D. OF STAMFORD/NORWALK
VS. : AT STAMFORD
PARTNER WEALTH MANAGEMENT, LLC :
ET AL. : MAY 9, 2016

PARTIES' JOINT MOTION TO MODIFY SCHEDULING ORDER

The Plaintiffs and Defendants in the above-referenced matter hereby jointly move the Court for a modification of certain deadlines as set forth in the current Stipulation and [Proposed] Scheduling Order attached hereto as ***Exhibit A***.

THE DEFENDANTS,

BY 

Richard C. Buturla
Berchem, Moses & Devlin, P.C.
75 Broad Street
Milford, CT 06460
Tel. (203) 783-1200
Juris # 022801

**BERCHEM, MOSES
& DEVLIN, P.C.**

COUNSELORS AT LAW

75 BROAD STREET

MILFORD, CONNECTICUT

06460

JURIS NUMBER

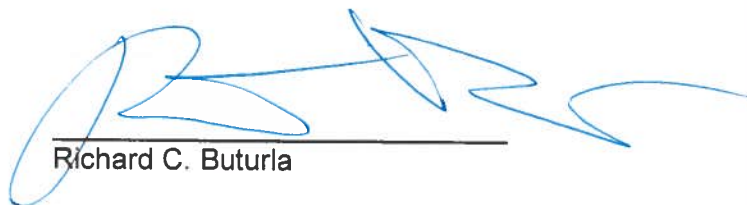
22801

(203) 783-1200

CERTIFICATION

This is to certify that a copy of the foregoing has been mailed, postage prepaid, on the date hereon to:

McCarter & English LLP
City Place 1
185 Asylum Avenue, 36th Floor
Hartford, CT 06103


Richard C. Buturla

**BERCHEM, MOSES
& DEVLIN, P.C.**

COUNSELORS AT LAW
75 BROAD STREET
MILFORD, CONNECTICUT

06460

JURIS NUMBER

22801

(203) 783-1200

EXHIBIT A

DOCKET NO.: FST CF 15-5014808-S)	SUPERIOR COURT
)	
WILLIAM A. LOMAS,)	JUDICIAL DISTRICT OF
)	STAMFORD/NORWALK
Plaintiff,)	
)	
versus)	AT STAMFORD
)	
PARTNER WEALTH MANAGEMENT, LLC et)	
al.)	
)	
Defendants.)	
)	

STIPULATION AND [PROPOSED] SCHEDULING ORDER

WHEREAS, due to good faith settlement efforts, the parties in the above-captioned action have not completed discovery as contemplated by the Scheduling Order entered in this case on October 29, 2015 (the "Original Scheduling Order"); and

WHEREAS, the parties to desire to conduct discovery in this case in an orderly manner without affecting the trial date;

THE PARTIES HERETO AGREE, SUBJECT TO COURT APPROVAL, AS FOLLOWS:

1. The date set for jury selection shall remain November 9, 2016 (the "Trial Date").
2. The time to serve written discovery requests, including document requests and interrogatories, is hereby extended until and including June 10, 2016, provided that any new written discovery requests are limited to claims, defenses, or factual allegations not previously in the case as of October 30, 2015.
3. Responses and objections, if any, to written discovery served pursuant to paragraph 2 above shall be due within 30 days of service of a set of discovery requests.
4. Requests for admission may be served up to 90 days before the Trial Date and

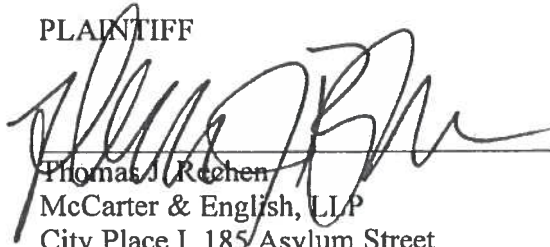
responses and objections, if any, shall be due within 30 days of service.

5. The parties shall disclose their experts by July 1, 2016.

6. Dispositive Motions: (a) moving papers shall be submitted to the Court by May 27, 2016, (b) opposition papers shall be submitted by June 20, 2016, and (c) reply papers shall be submitted by July 1, 2016. All dispositive motions shall be marked ready on the short calendar no later than July 1, 2016.

7. The parties will conduct fact and expert depositions on dates to be mutually agreed upon, with all depositions to be completed by no later than September 2, 2016. Any party opposing a motion for summary judgment shall have the right to take one or more depositions prior to the date for filing opposition papers as such party, in good faith, believes are necessary to properly defend such motion.

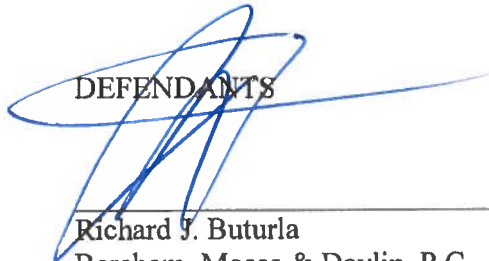
PLAINTIFF



Thomas J. Trechen
McCarter & English, LLP
City Place I, 185 Asylum Street
Hartford, CT 06103
trechen@mccarter.com
Attorneys for Plaintiff

Dated: May 9, 2016

DEFENDANTS



Richard J. Buturla
Berchem, Moses & Devlin, P.C.
75 Broad Street
Milford, CT 06460
rbuturla@bmdlaw.com

-and-

Edward D. Altabet (*pro hac vice*)
Gerard Fox Law P.C.
12 East 49th Street, 26th Floor
New York, NY 10017
ealtabet@gerardfoxlaw.com

Dated: May 9, 2016

SO ORDERED THIS _____ day of _____, 2016.

EXHIBIT D

Ed Altabet

From: Killian, Brittany <bkillian@McCarter.com>
Sent: Wednesday, July 20, 2016 4:25 PM
To: Ed Altabet
Cc: Rechen, Thomas
Subject: Scheduling Order - Lomas

Ed:

Thank you for sending over the exhibits. I have received them.

With regard to the scheduling order you proposed, we propose the following changes. After you review them, I would be happy to set up a time tomorrow to discuss them as I think it might be easiest to work out over the phone.

1. No change.
2. We propose changing the date to serve written discovery to August 15, 2016.
3. No change.
4. No change.
5. No change.
6. We do not think that the deadline for filing dispositive motions should be extended. This would move the trial date well beyond November 9, given the timeline for filing and then awaiting the Judge's decision.
7. We propose that fact and expert depositions be completed no later than October 17. This better accords with the new discovery schedule.

Please let me know if you would like to set up a time tomorrow to discuss this further.

Thanks,
Britt



Brittany A. Killian | Associate
McCARTER & ENGLISH, LLP

CityPlace I, 185 Asylum Street | Hartford, Connecticut 06103
T: 860-275-6736
F: 860-424-4770
bkillian@mccarter.com | www.mccarter.com

BOSTON | HARTFORD | STAMFORD | NEW YORK | NEWARK
EAST BRUNSWICK | PHILADELPHIA | WILMINGTON | WASHINGTON, DC

This email message from the law firm of McCarter & English, LLP is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

EXHIBIT E

Individual Calendaring Program

The individual calendaring program is a major initiative in the civil re-engineering process. It is intended to enhance the existing civil litigation system for all participants and to ensure that the Branch continues to provide relevant, affordable, predictable and appropriate dispute resolution for the people it serves.

The essential components of the individual calendaring program are: the assignment of a case to a single judge upon filing; early intervention by the court in cases; the issuance of a scheduling order, and the establishment of a firm trial date early in the process. A summary of the program is below.

Individual Calendaring Locations

The implementation of individual calendaring began in the Judicial District of Waterbury for civil cases filed on and after January 1, 2013, and it has now been implemented statewide. The individual calendaring program implementation dates for each judicial district are shown below:

- Waterbury (civil cases filed on and after January 1, 2013)
- New Britain (civil cases filed on and after January 1, 2014)
- Stamford (civil cases filed on and after July 1, 2014)
- New London (civil cases filed on and after January 1, 2015)
- Fairfield (civil cases filed on and after February 17, 2015)
- Ansonia/Milford (civil cases filed on and after July 6, 2015)
- Danbury (civil cases filed on and after July 6, 2015)
- Litchfield (civil cases filed on and after July 6, 2015)
- Middlesex (civil cases filed on and after July 6, 2015)
- Tolland (civil cases filed on and after July 6, 2015)
- Windham (civil cases filed on and after July 6, 2015)
- New Haven (civil cases filed on and after September 8, 2015)
- Hartford (civil cases with a return date on and after January 1, 2016)

Case Types Included

The individual calendaring program includes non-family *civil* cases filed or with a return date after a specific date of the following case types:

- Contract cases, except for contract collections matters (C 40)
- Property cases, except for foreclosure matters (P 00)
- Tort cases
- Vehicular Tort cases
- Miscellaneous cases of designated types
- Wills, Estates and Trusts cases

The remaining civil case types – administrative appeals, contract collections matters, eminent domain matters and foreclosure cases – are not automatically part of the individual calendaring program.

Cases that are not automatically assigned to the individual calendaring program can be moved into the program by the presiding judge based upon the recommendation of any judge or upon the filing, and approval by the presiding judge, of an application by counsel or self-represented party for referral of a case to the individual calendaring program. Judicial Branch form [JD CV-132](#) is available for use by parties or counsel in requesting a referral of a case to the program.

Timelines and Case Processing

When a case included in the program is filed, it is assigned by the presiding judge to an individual calendaring judge, and a notice is sent within ten days to counsel of record and self-represented parties, notifying them of the assignment. Counsel or self-represented parties are required to notify any parties who appear after the notice is sent of the assignment.

- In vehicular tort (V 01) cases, instead of an initial status conference, a standard scheduling order, including a firm trial date, is established within 30 days of the return date.
- For non-V 01 individual calendaring cases, casflow staff schedules a status conference with counsel of record and any self-represented parties with the individual calendaring judge between 60 – 90 days after the return date, or earlier if appropriate, to assign a firm trial date, have a preliminary discussion about alternative dispute resolution options, and establish a scheduling order.
- Status conferences can be requested by the parties at any time, and individual calendaring judges are encouraged to utilize telephone and video conferencing options when possible.

- A settlement conference can be requested by the parties at any time, but one will be scheduled within a month of the trial date.
- Once a case is assigned to an individual calendaring judge, motions or objections filed in that case are assigned to the short calendar that is created for each individual calendaring judge in a district with the exception of certain motions, such as motions for permission to file a motion for summary judgment, motions for consolidation, or motions for continuance of the trial date, which may be decided by the presiding judge in consultation with the individual calendaring judge.

Program Evaluation

It is anticipated that the implementation of individual calendaring will enhance the consistency in the handling of discovery and other motions within a case; provide predictability of procedures and scheduling, including a firm trial date; increase the possibility for an earlier settlement; and improve the overall efficiency of the civil litigation process. It is also anticipated that individual calendaring will result in a reduction in the cost of litigation and an increase in the satisfaction of the judges, the bar and the litigants with the civil litigation process.

Judicial Branch administration will be evaluating the individual calendaring program as it is rolled out statewide, to assess the impact of the program on the civil litigation process and on the experience of counsel, self-represented parties and litigants. Feedback from participants is encouraged.

For questions, comments or suggestions about the individual calendaring program, please send an e-mail to individual.calendaring@jud.ct.gov. For questions about a specific case, calendar or event, please contact the clerk of the court or the caseflow office where the file is located.